

**DISTRICT OF COLUMBIA
DOH OFFICE OF ADJUDICATION AND HEARINGS**

DISTRICT OF COLUMBIA
DEPARTMENT OF HEALTH

Petitioner,

v.

STEVENS TRANSPORT
Respondent

Case No.: I-00-11274

FINAL ORDER

I. Introduction

On November 28, 2001, the Government served a Notice of Infraction upon Respondent Stevens Transport, alleging a violation of 20 DCMR 900.1, which prohibits, with certain exceptions, motor vehicles from idling their engines for more than three minutes while parked, stopped or standing. The Notice of Infraction alleged that the violation occurred at 300 Morse Street, N.E., on November 26, 2001 and sought a fine of \$500.

Respondent filed a timely answer with a plea of Admit with Explanation, along with a request for reduction of the fine. On December 21, 2001, I issued an order permitting the Government to respond within 14 days. The Government has elected not to file a response.

II. Summary of the Evidence

Respondent admits that its truck idled its engine for more than three minutes, as charged in the Notice of Infraction. It asserts that the driver had finished a delivery and was using the truck's on-board communications system to contact the terminal. According to Respondent, it

can take up to 15 minutes for a driver to receive a response from the terminal at busy times, and the engine needs to be running for the system to work “if the engine has been turn[ed] off for several hours.” Respondent states that the driver would have used a toll-free number to call the terminal if he knew that idling the engine for more than three minutes was a violation. Respondent states that it has advised all its drivers that they should not idle their engines for more than three minutes in the District of Columbia.

III. Findings of Fact

Respondent’s plea of Admit with Explanation establishes that one of its trucks idled its engine for more than three minutes while parked on November 26, 2001. The driver was idling the engine while using a communications system to contact his terminal and was unaware of the engine idling regulation. Use of a toll-free telephone number was a feasible alternative means of communication for the driver. Respondent has acknowledged responsibility for the violation and has taken steps to avoid future violations by instructing its drivers about § 900.1. There is no evidence in the record that Respondent has a history of prior violations.

IV. Conclusions of Law

By idling the engine of a truck for more than three minutes while parked, Respondent violated 20 DCMR 900.1. The authorized fine for that violation is \$500 for a first offense. *See* 16 DCMR 3224.3(aaa), as added by the Motor Vehicle Excessive Idling Fine Increase Amendment Act of 1999, D.C. Law 13-35 (Effective October 7, 1999); 46 D.C. Reg. 8699 (October 29, 1999); 46 D.C. Reg. 6017 (July 23, 1999). Respondent’s claim that the driver was unaware of the regulation does not warrant a suspension or reduction of the fine. “Persons conducting business in the District of Columbia are expected to be aware of, and to comply with,

laws regulating their business.” *DOH v. VIP Adventures Seniors Unlimited, Inc.*, OAH No. I-00-11215 at 2 (Final Order, June 5, 2002), citing *DOH v. Bigbee Steel and Tank Co.*, OAH No. I-00-11217 at 3-4 (Final Order, May 16, 2002); *DOH v. Bloch & Guggenheimer, Inc.*, OAH No. I-00-10439 at 3-4 (Final Order, April 18, 2001). A feasible alternative that did not require violating the regulation was available to the driver, so his use of the communications system does not mitigate the infraction. Respondent, however, has accepted responsibility for the violation and has instituted measures to avoid future violations by its drivers. There is also no evidence that it has a history of prior violations. Accordingly, the fine will be reduced to \$250.

V. Order

Based upon the foregoing findings of fact and conclusions of law, it is, this _____ day of _____, 2002:

ORDERED, that Respondent shall pay a total of **TWO HUNDRED FIFTY DOLLARS (\$250)** in accordance with the attached instructions within twenty (20) calendar days of the mailing date of this Order (15 days plus 5 days service time pursuant to D.C. Official Code §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that if Respondent fails to pay the above amount in full within twenty (20) calendar days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1½ % per month or portion thereof, starting from the date of this Order, pursuant to D.C. Official Code § 2-1802.03 (i)(1); and it is further

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including

the suspension of Respondent's licenses or permits pursuant to D.C. Official Code § 2-1802.03(f), the placement of a lien on real and personal property owned by Respondent pursuant to D.C. Official Code § 2-1802.03(i) and the sealing of Respondent's business premises or work sites pursuant to D.C. Official Code § 2-1801.03(b)(7).

FILED **08/05/02**

John P. Dean
Administrative Judge